

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



August 23, 2006

ALL COUNTY INFORMATION NOTICE I-58-06

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS
ALL CalWORKs PROGRAM SPECIALISTS

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: FOOD STAMP QUESTIONS AND ANSWERS (Q&As)

The purpose of this letter is to provide counties with answers to questions regarding Food Stamp Program (FSP) policy. These questions were submitted by the Food Stamp Review and Advisory Team (FRAT) of the County Welfare Director's Association (CWDA). Answers were developed at the state level and finalized with assistance from FRAT members.

Answers to these questions are intended to be informational and are only based on the general circumstances provided in the question. For appropriate application to specific case circumstances, counties should refer to the regulations, All County Letters, and All County Information Notices that are referenced in the responses.

If you have any questions regarding the attached Q&As, please contact Joyce Brewer of the Policy Implementation Unit at (916) 654-3366.

Sincerely,

Original Document Signed By:

RIGHTON YEE, Chief
Food Stamp Branch

Attachment

HOUSEHOLD CONCEPT – UNMARRIED COUPLES

QUESTION:

Can two people in a common-law marriage or in a relationship holding themselves out to be married be in separate households?

ANSWER:

No. According to MPP 63-402.14 and 63-402.143 which state "separate household status shall not be granted to: An individual living with the household who is a spouse of a member of the household" Per MPP 63-102(s)(9), a spouse is defined as either of two individuals who would be defined as married to each other under applicable state law or who are cohabitating and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople. Since the couple is holding themselves out to be married, and therefore considered spouses, they cannot claim separate household status.

HOUSEHOLD CONCEPT – DIVORCE

SCENARIO:

A food stamp household consists of a 20 year-old mother with one eligible child. The mother and child share their household with the mother's former stepfather. The former stepfather has confirmed that he was married to the client's mother, but they have been divorced for at least five years. The SAWS 2 and all applicable paperwork claim that the mother and her child purchase and prepare separately from the former, now divorced, stepfather.

QUESTION:

Does the divorce eliminate the requirement that this household be considered one household?

ANSWER:

Yes, they can be considered separate households based on the following reasoning. In the above situation, they are not eating, purchasing, and preparing together. According to 63-402.12, "An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others except as otherwise specified in MPP 63-402.14" may be considered a separate household.

Per MPP 63-402.142, "parents living with their natural, adopted or stepchildren, or children living with their natural, adopted, or stepparents "shall not be separate households "(a) unless a child is: (1) 22 years of age or older and purchases food and prepares meals for home consumption separately from his/her parents; or (2) participating in the other parent's food stamp household". However, since the former stepparent is no longer married to the 20 year-old's parent, the former stepparent is not responsible for the support of the child. Since the former stepparent is under no obligation to support the former stepchild, MPP 63-142.142 does not apply in this case. Unless there is information to the contrary showing a legal obligation to support the former stepparent, two separate households are allowable.

HOUSING COSTS

QUESTION:

A household includes an SSI mother and one child that are receiving CalWorks and food stamps. They live in a townhouse that the mother owns, so there is no mortgage to be paid. She does declare a monthly townhouse association cost of \$324. The fee covers insurance, garbage, sewer and landscaping where the townhouse is located. She pays yearly property taxes and monthly utility costs of PG&E, water and telephone. Can the monthly association fees be pro-rated and allowed as a housing cost along with the pro-rated amount of property taxes?

ANSWER:

Yes, the homeowner's fee and property taxes are a continuing mandatory requirement for purchasing a townhouse. It is an allowable shelter expense provided in MPP 63-502.362(c) "Shelter costs shall include only the following: property taxes, state and local assessments, and insurance...." regardless if the fee is included in the mortgage payment or not. In addition, MPP 63-502.362(b) states that continuing costs leading to the ownership of the shelter shall be allowed as a shelter cost. Without paying the association fees, the household would not be able to maintain ownership. Therefore, the association fee is considered a shelter cost along with property taxes.

CLAIMS AGREEMENT

QUESTION:

When a participant has completed a repayment agreement requesting a reduction in their benefits to satisfy an overissuance adjustment, but the case is terminated, should the county:

1. Send the household a final demand for repayment attaching another repayment agreement; or
2. Refer the case to Collections 30 days from the termination without sending a final demand notice?

SCENERIO:

Example #1: The County has established a food stamp claim for Mrs. Johnson and sends her a notice of action advising her of such. In addition to the Notice of Action (NOA), a notice of repayment agreement has also been sent. The household responds, signing the repayment agreement, and returns it within 30 days. Mrs. Johnson requests the agency to reduce her food stamp benefits. The recoupment of the overissuance is effective 05/01/05. On 09/30/05, Mrs. Johnson's case has been terminated and she does not reapply for benefits.

Example #2: Same scenario as stated in example #1 except she reapplies for benefits before the 30 days are past.

DISCUSSION:

At Section 63-801.431—CWDs shall initiate collection action by providing the household a NOA and a demand letter requesting repayment. The due date for repayment agreement is 30 days after the initial NOA was sent. Section 63-801.441 (although talking about households that fail to respond to the demand letter) indicates a precedent for no need of a further notice if collection action has been initiated against the household for repayment of a claim, and the household is currently participating in the FSP.

MPP 63-801.71 through 63-801.74 lists the types of collection methods: lump-sum, installments, reduction of food stamp allotments and other methods like tax intercepts. Regulations at Section 63-801.731 state that CWDs shall collect repayments for a claim from a household currently participating in the program by reducing the household's food stamp allotment as provided in Section 63-801.44.

ANSWER:

Example #1 When the household does not reapply: The CWD must send a second demand letter and another repayment plan needs to be put into place per Section 63-801.7 (lump sum, installments) or per Section 63-801.74 (referrals to collection and/or similar private or public sector agencies, state tax refund and lottery offsets, wage garnishments, property liens, and small claims court). If there is no compliance, refer the case to Collections.

Example #2 When the household does reapply within 30 days: Because the household does not have a 30-day break in benefits, the household shall be considered to be receiving benefits on a current basis. Therefore, a second demand letter would not be necessary (MPP 63-801.441 "The CWD shall reduce the household's food stamp benefits without further notice...") unless the CWD, at its discretion, wanted to send a second demand letter. The allotment reduction can resume without a second notice, if the CWD so chooses.

FOOD STAMP IDENTIFICATION (ID) CARDS

QUESTION:

Does the County Welfare Department (CWD) continue to issue food stamp identification cards to food stamp recipients and their Authorized Representatives (ARS) when Electronic Benefit Transfer (EBT) is implemented in the county?

ANSWER:

Since EBT is now fully implemented in all counties, the ID card is now obsolete. The United States Department of Agriculture's (USDA) policy is that the EBT cards suffice as the required Food Stamp ID card and that counties do not need to issue any card other than the EBT card.

UNREPORTED INCOME - CALCULATION TO DETERMINE AN OVERISSUANCE

SCENARIO:

A food stamp household received benefits since 2002 and has been reporting income earned from her full-time job. Three years later through IEVS, it was found that the recipient had also been self-employed working and paid cash which the household never reported to the county. CWD received a copy of the household's tax forms from IRS of the household's annual income which was reported on the recipient's taxes. The CWD calculated the overissuance as such:

Gross annual income (from tax forms provided by IRS); and
Subtracted the income that the household reported to the county; and
Subtracted the self-employment expenses (which are not verified); and
Divided the balance by 12 months and averaged out for the entire year.
The CWD then took the average gross monthly income to determine the overissuance for each month the household received benefits.

QUESTION:

Is this the correct calculation method to determine the overissuance? If not, what is the correct methodology to determine an overissuance?

ANSWER:

The preferred methodology is as follows:

The self-employed income needs to be computed separately from income earned on the job to arrive at a "net gross" self-employment income amount. Based on 63-503.412(b), which states "Self-employment must be averaged over the period of time the income is intended to cover." it is appropriate to average self-employment income over the year it was received. That monthly figure is considered gross self-employment income. From the gross self-employment income, allow 40 percent for self-employment expenses per month as allowed by Section 63-503.413 which states "To determine the net gross income of the applicant. a standard deduction of 40 percent of gross earned income." or deduct actual costs of doing business to arrive at the "net gross" self-employment income amount.

Then, compute all earned income, including self-employed "net gross" income per month. Add the gross earned income from the job with the "net gross" from self-employment = total gross earned income. From there allow all applicable deductions, such as 20% of earned income, standard deduction, etc., to get the total net income amount. Then, from what was received, deduct what should have been received to determine the amount of the overissuance.

VERIFICATION - POSTPONED

QUESTION:

A family applied for and was approved for expedited services food stamps in January, with postponed verification for income. The family had applied after the 15th of the month and was certified for January and February. The family reported at the end of January that the person whose income verification was pending (postponed) left the home at the end of January and postponed verification is not available. Should the county disregard the postponed verification since the owner of that income left the home?

ANSWER:

A "collateral contact" should be made if information for a contact was provided by the household. The CWD shall otherwise assist the household in obtaining the necessary verification as documentation for benefits paid in January per MPP 63-301.542 which states "Once the household has supplied the name of a collateral contact or has asked the CWD for assistance in locating a collateral contact, the CWD shall promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification". If it is not possible to obtain verification through a collateral contact or by assisting the household, the verification shall not be required.